

Approved January 25, 2006



**SCOTTSDALE PLANNING COMMISSION  
CITY HALL KIVA  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
JANUARY 11, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** David Gulino, Chairman  
Steve Steinberg, Vice-Chairman  
David Barnett, Commissioner  
James Heitel, Commissioner  
Eric Hess, Commissioner  
Jeffrey Schwartz, Commissioner  
Steven Steinke, Commissioner

**STAFF PRESENT:** Tim Curtis  
Lusia Galav  
Kira Wauwie  
Greg Williams  
Frank Gray  
Donna Bronski  
Randy Grant

**CALL TO ORDER**

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:27 p.m.

**ELECTION OF CHAIRMAN AND VICE CHAIRMAN (effective February 8, 2003)**

Commissioner Schwartz presented Chairman Gulino with a gift from all of the Commissioners thanking him for his time spent on the Planning Commission.

**COMMISSIONER SCHWARTZ MOVED TO NOMINATE VICE-CHAIRMAN STEINBERG AS CHAIRMAN. THE NOMINATION WAS SECONDED BY COMMISSIONER HESS, AND CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

**APPROVED**

**COMMISSIONER HESS MOVED TO NOMINATE COMMISSIONER HEITEL AS VICE-CHAIRMAN. THE NOMINATION WAS SECONDED BY COMMISSIONER BARNETT, AND CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

**MINUTES REVIEW AND APPROVAL**

1. December 14, 2005 (including Study Session)

**COMMISSIONER HESS MOVED TO APPROVE THE DECEMBER 14, 2005 MINUTES INCLUDING THE STUDY SESSION. SECONDED BY COMMISSIONER STEINBERG, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

**EXPEDITED AGENDA**

Commissioner Gulino announced changes made to the agenda, noting that item number four, 19-ZN-2005 (Sierra Highlands) would be moved from the expedited agenda to the regular agenda. Item number five, 39-ZN-1992#4 (Mayo Clinic), and item number six, 4-TA-2004 (Parking Program Text Amendment), were both moved to the expedited agenda.

Commissioner Gulino noted a conflict with item number two, 15-AB-2004. He also noted that Commissioner Barnett has a conflict with item number five, 39-ZN-1992#4. These items are to be voted on separately.

3. **23-UP-2005 (APS Cricket Hayden)**

Citizen David Richard, 27201 N. 79<sup>th</sup> Street, expressed concern with the building of a new cell tower. He noted that existing cell towers are visually unpleasing and requested that the Planning Commission require a higher standard in order to make the towers blend into the environment.

Commissioner Steinberg informed Mr. Richards that the request is not for a new tower, but for a piece of apparatus that will be added to an existing tower.

Mr. Curtis presented photographs depicting the tower with proposed antennas added.

In response to inquiry by Commissioner Heitel, Mr. Curtis clarified that because the location is on the McDowell Sonoran Preserve property, a conditional use permit is required. He also noted that it is a matter of procedure to challenge the Applicant to ensure that careful consideration has been given to other locations; however, exhausting of other locations is not a specific criteria under the conditional use program.

Commissioner Heitel requested clarification from staff on exactly what the ordinance requires, citing that there are specific statements in the wireless ordinance.

In response to Commissioner Steinke's inquiry, Mr. Curtis noted that the existing towers were erected in 2001 before the conditional use permit requirement and were grandfathered in, so they are not under the five year regulation that the use permit provides. He also reported that there are a half-dozen other towers using APS as their location and that this is the first application since the ordinance was put in place.

Commissioner Steinke noted that the 2002 ordinance should be reviewed in order to determine restrictions for existing towers. He opined that care should be taken to prevent overuse of the towers.

**COMMISSIONER SCHWARTZ MOVED TO APPROVE 23-UP-2005 BECAUSE IT MEETS THE SPECIAL USE REQUIREMENTS. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO TWO (2). COMMISSIONERS STEINKE AND BARNETT DISSENTED.**

6. 4-TA-2004 (Parking Program Text Amendment)

**COMMISSIONER SCHWARTZ MOVED TO APPROVE 4-TA-2004 WITH THE NEW LANGUAGE PER ORDINANCE #3662 AS PREVIOUSLY PROVIDED TO COMMISSIONERS. SECONDED BY COMMISSIONER BARNETT, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

5. 39-ZN-1992#4 (Mayo Clinic)

**COMMISSIONER SCHWARTZ MOVED TO APPROVE 39-ZN-1992#4. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER BARNETT RECUSED HIMSELF.**

2. 15-AB-2004 (Biel Property)

**COMMISSIONER SCHWARTZ MOVED TO APPROVE 15-AB-2004 SUBJECT TO COMMISSIONER HEITEL'S REQUEST OF PLACING ON THE RECORD A STATEMENT FROM STAFF.**

A discussion ensued in response to an inquiry by Commissioner Steinke concerning dividing the Biel parcel and access to the parcel. Mr. Williams clarified that the Applicant would still be able to divide the parcel into two 5-acre parcels, noting that one easement would have to remain an easement in order to meet the minimum of 190,000 square feet net development standards requirement. Mr. Williams presented a map depicting that the northern state land cannot be accessed from the south. He elaborated that the City has plans to loop the waterline through Dixileta to reach 118<sup>th</sup> Street and the Applicant choose to use the western property boundary plan based on the infrastructure.

Discussion ensued, whereupon Commissioner Heitel noted that if the half street on the north portion of the Biel property were not abandoned, the City would still have a viable right-of-way that would terminate at the Preserve.

Commissioner Barnett noted that this area is highly undeveloped and questioned the reasoning for abandonments. He opined that it makes sense for the City to maintain their rights now and proceed with the abandonment in 10 to 15 years. In response, Mr. Gray identified the criteria to be used in the future, stating that if there is no possible use for right-of-way or if right-of-way has been provided in an alternate location, then and only then, will abandonments of right-of-way be recommended. He noted that there are no long-term plans for development. He explained that the abandonment of the right-of-way appeared to be a prior recommendation that Dixileta be abandoned and that there was no practical purpose to continuing an additional short section of Dixileta into this area. The land adjacent to this property were to provide right-of-way only to this property and the alternate right-of-way is provided in this particular subdivision for both the looping of the water line and access to this property. No additional access is provided to any other properties.

Commissioner Schwartz agreed with Commissioner Heitel concerning access to the Preserve. He would be in favor of approving the case, providing that the abandonment of the Dixileta portion of the right-of-way is removed. He opined that the property would best be served by a road to the west side, which would provide views of the golf course from the front of the property. He reiterated Commissioner Heitel's remarks in support of preserving future access points to the Preserve, opining that this could be accomplished by approving without the abandonment of the Dixileta Road portion.

In response to inquiry by Vice-Chairman Steinberg, Mr. Williams noted that he would have to verify the information, but he believed that the property split could still be accomplished without the Dixileta abandonment.

Commissioner Heitel commented that the Planning Commission needs to come to decision regarding abandonments; opining that the City owes it to its citizens to come to a definitive decision. He does not support the northern abandonment. Whereupon,

**COMMISSIONER HEITEL SECONDED THE MOTION, WITH THE CONDITION THAT THE NORTHERN ABANDONMENT BE REMOVED AND A HALF-CIRCLE TURN-AROUND BE INCLUDED AT THE END OF DIXILETA ROAD.**

**COMMISSIONER SCHWARTZ AMENDED THE MOTION TO INCLUDE COMMISSIONER HEITEL'S COMMENTS REGARDING THE HALF-TURN-AROUND ON DIXILETA ROAD AS A CONDITION OF THE ABANDONMENT.**

Karen Biel, Applicant, confirmed the plans to split the parcel into two five-acre lots and agreed to accept a plan calling for the west side following the infrastructure of the water to north Dixileta and making the loop to 118<sup>th</sup> Street and a half-loop at the northeast corner.

Commissioner Hess commented that if the plan does not work mathematically, the Applicant can apply for a variance.

**THE MOTION CARRIED WITH A VOTE OF FIVE (5) TO ONE (1)  
COMMISSIONER BARNETT DISSENTED. CHAIRMAN GULINO RECUSED.**

## **REGULAR AGENDA**

### **4. 19-ZN-2005 (Sierra Highlands)**

Mr. Curtis addressed the Commission pursuant to the staff packet. Highlights of the presentation included an aerial map of the area. He noted that the City's general plan classifies the area as rural and that the 30 acres in question are completely surrounded by these rural neighborhoods. He reiterated that the property is zoned R1-190 ESL and that the Applicant is requesting a rezone to R1-70 ESL. The conceptual site plan depicted 15 more lots and 3.6 acres more natural open space than is required under the zoning ordinance. Mr. Curtis also noted that staff had received an email from a citizen concerning rezoning, a petition from neighborhood residents in support of the project, and a letter from the Pinnacle Peak Coalition stating that they were not in opposition of the application.

Commissioner Heitel referred to the zoning map, questioning what the staff process is for deciding to support zoning changes. He noted that the approximately 220 acres surrounding the area would follow suit with zoning requests if this case were approved.

Mr. Grant responded, stating that the General Plan has broad parameters in which both the current condition and the request fit. He noted that staff analysis is based on the site plan that has been proposed, the commitment to building envelopes, and that more NAOS would be achieved than with the current R1-190 designation. He reiterated that staff analysis is dependent on the guidelines and policies that are available. Staff believes that the project is consistent with ESLO, given that ESLO doesn't dictate a certain density and manages the condition within that zoning. Mr. Grant noted that both designations would be acceptable.

Commissioner Heitel expressed concern about the two dimensional planning. He elaborated that this could potentially be a rush to the rezoning table for surrounding areas. He opined that staff shouldn't take a position on issues such as this and that the global vision should be considered.

Representing the Applicant, Mr. John Berry began his presentation by clarifying for Commissioner Schwartz that the Applicant no longer owns the 10-acre parcel located to the east of the property, as depicted on the map. He indicated that there is a letter of non-opposition from the Desert Foothills Coalition, and letters of support from neighbors. Highlights of Mr. Berry's presentation included photographs depicting a rural desert character element and a highlight of the Desert Foothills Character Plan. He noted that the Applicant's goals and objectives were to protect the character of the area, protect the environment, and to protect the land. He also presented a chart depicting the zoning areas and percentage used in Scottsdale. Mr. Berry opined that if there is a precedent being set, it would be for better planning, environmental sensitivity, and preserving the desert.

In response to inquiry by Chairman Gulino, Mr. Berry clarified that the building envelopes are 25-30 thousand square feet, that the NAOS is 38 percent, and that the Applicant is proposing a 50 percent NAOS.

Mr. Paul Pastor, a resident in the community due south of the project at 8494 E Cactus Wren, spoke in support of the project, noting that it would be in harmony with the area for conformity and uniformity. He noted that he was representing additional landowners and homeowners from his community in addition to the Bella Tierra Homeowners Association.

Mr. Tony Nelssen addressed the Commission, expressing strong opposition to the project. He noted that the beauty of Scottsdale is its diversity and that the trend should be to stay with the zoning in order to preserve the diversity. He remarked that there was nothing negative about the project other than the fact that it is inappropriate. He opined that approval of this project would open the door for other properties to apply for up-zoning.

Commissioner Heitel recollected that Mr. Nelssen has extensive experience working with the City's development over the years. He commented that the reason for maintaining diversity is so the City can retain different types of building standards. He requested that Mr. Nelssen relate a little further regarding different types of properties being used in Scottsdale in addition to equestrian facilities. He also requested that Mr. Nelssen speak concerning some of the overriding issues of what would happen in the northern area with regards to transportation, new power substations and those types of things if the word got out that R1-190's were tripled in density all over North Scottsdale.

Mr. Nelssen explained that he spent six to eight months on the APS Citizens' Task Force on a location study for a substation within the Preserve boundary; the need for that was expressed upon existing density and existing growth patterns. He noted that the need for power is rising and that SRP and APS are dedicated to providing power. He stated that during that time it was impressed upon him that the City needs to build as planned and not go beyond what is planned. Concerning traffic conditions, he opined that the only hope to prevent Pima and Scottsdale Roads from becoming eight lane arterial highways is to maintain the growth that has been planned for the area and that the preserve effort is successful.

Mr. Nelssen further explained that in his 20 year involvement, most major changes have been little ones similar to the one that Mr. Berry is proposing. He noted that once projects were approved someone else would come along and request the same thing, claiming that was how it was planned. He reiterated that Scottsdale does not have the infrastructure, nor the money to build the infrastructure to support additional growth.

In response to Mr. Nelssen's comments, Mr. Berry reiterated facts concerning growth plans and the impact on transportation and power, noting that staff reported that there would be no impact resulting from this project. He also opined that the Planning Commission owes it to the citizens, neighbors, and the Coalition of Pinnacle Peak to pass this application.

Commissioner Heitel observed that Mr. Berry's comments could be tape recorded and played back for every R1-190 submitted to the Commission. He also noted that he has received a number of calls from members of the Coalition in opposition to the rezoning. He stated that he wished to make his fellow Commissioners aware that he has received a different picture from the citizens than Mr. Berry is representing.

A discussion ensued between Mr. Berry and Commissioner Heitel concerning the representation of the case to the community. Commissioner Heitel opined that this is effectively a 200 acre rezoning, not a 30 acre rezoning and that there would have been a different response had it been represented that way.

Discussion ensued between Commissioner Hess and Mr. Berry concerning the intentions of the developer. Commissioner Hess noted that it is not in the purview of the Planning Commission to enrich a developer at the expense of the citizens of Scottsdale. He commented that he doesn't understand how a developer can acquire a piece of land and assume that rezoning will be approved.

Commissioner Schwartz commented that the job of the Planning Commission is to decide what land use is best for the area. He opined that it is not up to the Commission to decide what is profitable. He would be in support of this application.

Commissioner Steinke remarked on the well-crafted thorough design for the parcel. He expressed that he does feel that the risk to the remaining lots shouldn't be underestimated. One of the challenges that he would put to the staff, the community, and the Planning Commission is to be mindful of the remaining areas and what can be done to protect the area. He reminded the Commission that the general plan was adopted by the City Council in 2001 and ratified by voters in 2002. He noted a suspicion that voters didn't envision R-43's throughout the entire area. He suggested that he may not agree with everything Commissioner Hess and Commissioner Heitel said, but he would agree that there is a great risk if proactive steps aren't taken to perpetuate an attitude of preservation and good planning. Commissioner Steinke reiterated that he will support the proposal as presented, but does note a concern about the remaining six miles.

Chairman Gulino discussed using the General Plan as a guiding document. He opined that if the Commission does not agree with the way that the General Plan is worded, it should then be changed; however, it is not fair to people going through the process to second guess the definitions. He reviewed that the definition of development is area that is improved. He reiterated that this is the kind of development that speaks to the objective of preserving land, therefore he would support it.

Commissioner Heitel reiterated earlier comments in opposition, citing the mission statement of the Coalition which states that government should support people, not developers. He also summarized the Commission's historical perspective: "Unless there was an overriding necessary public good to be served, zoning of land should remain as established." He opined that a great deal of effort on a

bad plan is still a bad plan. He hoped that his fellow Commissioners would rethink their position; he will not support the application.

**COMMISSIONER HEITEL MOVED TO DENY 19-ZN-2005. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED WITH A VOTE OF FOUR (4) TO THREE (3). CHAIRMAN GULINO AND COMMISSIONERS SCHWARTZ AND STEINKE DISSENTED.**

Commissioner Schwartz reminded staff of his request for information on the Rio Verde area. He restated his request for staff to follow up with an update of what is going on and how Scottsdale is participating in potential solutions such as fire, water, sewer, police, and land planning.

Mr. Gray committed to contact Maricopa County to arrange for one of their planners to make a presentation before the Planning Commission.

### **ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 7:20 p.m.

Respectfully submitted,  
A/V Tronics, Inc.